



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/909,955	07/20/2001	Stephen F. Dull	12587-020001	2457

26212 7590 08/03/2004

FISH & RICHARDSON P.C.  
225 FRANKLIN STREET  
BOSTON, MA 02110

EXAMINER
----------

JEANTY, ROMAIN

ART UNIT	PAPER NUMBER
----------	--------------

3623

DATE MAILED: 08/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/909,955

Applicant(s)

DULL ET AL.

Examiner

Romain Jeanty

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 26, 2004 has been entered.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 38 and 41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 38 recites the term "utility information". This term renders the claim vague and indefinite because it is unclear as to what applicant means by said term.

Claim 41 recites the term "utility analytic". This term renders the claim vague and indefinite because it is unclear as to what applicant means by said term.

#### **Claim Rejections - 35 USC § 103**

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-33, 40, 42, 45, 47, 50, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over David (Wo9959096) in view of Frost (U.S. Patent No. 5,041,972) and further in view of Judith (Using trade-off analysis to determine value-price sensitivity of custom calling features).

As per claims 1, and 39-52, David discloses a customer survey system comprising:  
receiving at least conjoint survey data concerning consumer experience with a brand  
(Page 3, lines 6-8; Page 15, lines 18-20 and Page 16, lines 6-8);

processing at least the conjoint survey data (Page 8 lines 23-27).

David discloses presenting/displaying the survey data to the user in multiple formats (Page 18, lines 9-27 and Page 19, lines 4-10). David does not explicitly disclose producing marketing analytics and presenting the marketing analytics. Frost, on the other hand, discloses “producing marketing analytics” as a means of performing analysis on survey data obtained from customers (col. 8, lines 36-39 and col. 9, lines 38-58). It would have been obvious to a person of ordinary skill in the art to modify the survey system of David to incorporate the marketing analysis of Frost. One having ordinary skill in the art would have been motivated to use such a modification in order to allow customers to make intelligence decisions and take timely actions

Art Unit: 3623

to achieve business goals. In addition, David and Frost do not explicitly disclose the use of conjoint data. Judith in the same field of endeavor, disclose the idea of receiving conjoint survey data. Note entire article. It would have been obvious to a person of ordinary skill in the art to modify the disclosures of David and Frost to incorporate the conjoint data of Judith in order to make decisive market decision.

As per claim 2, David, and Judith disclose the limitations of claim 2 in the rejection of claim 1 above. However, the combination of David and Judith does not explicitly disclose “receiving at least one of a market share data”. Frost in the same field of endeavor, discloses the claimed feature “receiving at least one of a market share data” as a means of obtaining and evaluating market share data (col. 9, line 53). It would have been obvious to a person of ordinary skill in the art to modify the survey system of David and Judith to incorporate the market share data in the same conventional manner as disclosed by Frost. One having ordinary skill in the art would have been motivated to use such a modification in order to allow customers to make intelligence decisions and take timely actions to achieve business goals.

As per claim 3, David and Judith discloses the limitations of claim 3 have in the rejection of claim 1 above. In addition, David discloses the claimed feature “displayed a form specified by a user “ as a means of waiting for the user to select a format for the survey data to be displayed (See abstract and Page 16 lines 4-12). Displaying the marketing analytic in the user selected format into David and Judith would have been obvious to a person of ordinary skill in the art for the motivation allowing a customer to view survey reports in a desired format.

As per claim 4, David and Judith disclose the limitation of claim 4 in the rejection of claim 1 above. However, David and Judith do not explicitly disclose “updating the conjoint

Art Unit: 3623

survey data at predetermined intervals”. Frost in the same field of endeavor, discloses the claimed feature “updating the conjoint survey data at predetermined intervals” as a means of updating the survey data over time (col. 11, lines 35-38). It would have been obvious to person of ordinary skill in the art to modify the combined teachings of David and Judith by including updating the survey data at predetermined in the same conventional manner as disclosed by Frost. A person having ordinary skill in the art would have been motivated to use such a combination in order to maintain accuracy of the survey data.

As per claim 5, David, Frost and Judith disclose the limitations of claim 5 in the rejection of claim 1 above. In addition, David discloses the claimed feature “wherein a presentation engine is used to provide a variety of display choices to a user” by using a Java Applet for displaying options to the customer (Page 18, lines 9-14).

As per claim 6, David, Frost and Judith disclose the limitations of claim 6 in the rejection of claim 1 above. However, David and Judith do not explicitly disclose “generating simulation data using the marketing analytics”. Frost in the same field of endeavor, discloses the claimed feature “generating simulation data using the marketing analytics” as a means of simulating the market data (col. 9, lines 41-58). It would have obvious to a person of ordinary skill in the art to modify David’s system to include market simulation in the same conventional manner as disclosed by Frost. One having ordinary skill in the art would have been motivated to utilize such a combination to allow customers to make intelligence decisions and take timely actions to achieve business goals.

As per claim 7, David, Judith discloses the limitations of claim 7 in the rejection of claim 1 above. However, David and Judith do not explicitly disclose “a trend analytic”. Frost in the

Art Unit: 3623

same field of endeavor, Frost discloses at least the claimed feature “a trend analytic” as a means of predicting trend in market share data (col. 11, lines 35-38). It would have obvious to a person of ordinary skill in the art to modify David’s system and Judith to include trend in market shares as taught by Frost. One having ordinary skill in the art would have been motivated to utilize such a combination to allow customers to make intelligence decisions and take timely actions to achieve business goals.

As per claim 8, David discloses a customer survey system discloses an apparatus comprising:

a memory and processor a processor coupled to the memory (Page 9, lines 24-28), wherein the processor is configured to:

receiving at least conjoint survey data concerning consumer experience with a brand (receiving survey data from the customer) (Page 3, lines 6-8; Page 16, lines 6-8);

processing at least the conjoint survey data (Page 8 lines 23-27).

David discloses presenting/displaying the survey data to the user in multiple formats (See abstract; Page 18, lines 9-14 and Page 19, lines 4-10). However, David does not explicitly disclose producing marketing analytics and presenting the marketing analytics to a user. Frost, on the other hand, discloses “producing marketing analytics” as a means of performing analysis on survey data obtained from customers (col. 8, lines 36-39 and col. 9, lines 38-58). It would have been obvious to a person of ordinary skill in the art to modify the survey system of David to incorporate the marketing analysis of Frost. One having ordinary skill in the art would have been motivated to use such a modification in order to allow customers to make intelligence decisions and take timely actions to achieve business goals. In addition, David and Frost do not

Art Unit: 3623

explicitly disclose the use of conjoint data. Judith in the same field discloses the idea of receiving conjoint survey data. It would have been obvious to a person of ordinary skill in the art to modify the disclosures of David and Frost to incorporate the conjoint data of Judith in order to make decisive market decision.

As per claim 9, the limitations of claim 9 are noted in the rejection of claims 2 above. Therefore, it is rejected under the rationale.

As per claim 10, the limitations of claim 10 are noted in the rejection of claim 3 above. Therefore, it is rejected under the rationale.

As per claim 11, the limitations of claim 11 are noted in the rejection of claim 4 above. Therefore, it is rejected under the rationale.

As per claim 12, the limitations of claim 12 are noted in the rejection of claim 5 above. Therefore, it is rejected under the rationale.

As per claim 13, the limitations of claim 13 are noted in the rejection of claim 6 above. Therefore, it is rejected under the rationale.

As per claim 14, the limitations of claim 14 are noted in the rejection of claim 7 above. Therefore, it is rejected under the rationale.

Claim 15 recites an article comprising a computer-readable medium that stores executable instructions for causing a computer system for performing the steps of claim 1 above. Therefore, claim 15 is rejected under the same rationale as claim 1 above.

Claim 16 recites an article comprising a computer-readable medium that stores executable instructions for causing a computer system for performing the steps of claim 2 above. Therefore, it is rejected under the rationale.



Art Unit: 3623

Claim 17 recites an article comprising a computer-readable medium that stores executable instructions corresponding to limitations in method claim 3 above. Therefore, it is rejected under the same rationale.

Claim 18 recites an article comprising a computer-readable medium that stores executable instructions corresponding to limitations in method claim 4 above. Therefore, it is rejected under the same rationale.

Claim 19 recites an article comprising a computer-readable medium that stores executable instructions corresponding to limitations in method claim 5 above. Therefore, it is rejected under the same rationale.

Claim 20 recites an article comprising a computer-readable medium that stores executable instructions corresponding to limitations in method claim 6 above. Therefore, it is rejected under the same rationale.

Claim 21 recites an article comprising a computer-readable medium that stores executable instructions corresponding to limitations in method claim 7 above. Therefore, it is rejected under the same rationale.

As per claim 22, David discloses survey web server (See figure 1, element 20). It is to be noted that in order for a user/customer to obtain survey information from the survey web server, the user/customer must access the survey web server.

David further discloses the claimed feature “providing a variety of selectable display choices, and selecting a display choice and viewing survey data in response to the selection” as a means of permitting tabulated survey result data to displayed in multiple graphical formats (Page 18, lines 1-27).

David is silent on the idea process marketing analytics, wherein the marketing analytics are based on at least conjoint data concerning consumer experience with a brand. On the other hand, Frost discloses a method for evaluating a consumer which performs analysis on survey data obtained from customers (col. 8, lines 36-39 and col. 9, lines 38-58). It would have been obvious to a person of ordinary skill in the art to modify the survey system of David to incorporate evaluating a consumer which performs analysis on survey data obtained from customers of Frost. One having ordinary skill in the art would have been motivated to use such a modification in order to allow customers to make intelligence decisions and take timely actions to achieve business goals. In addition, David and Frost do not explicitly disclose the use of conjoint data. However Judith disclose the idea of receiving conjoint survey data. It would have been obvious to a person of ordinary skill in the art to modify the disclosures of David and Frost to incorporate the conjoint data of Judith in order to make decisive market decision.

As per claim 23, David, Frost and Judith disclose the limitations of claim 23 in the rejection of claims 22 above. In addition, David discloses a network system (See Page 7, lines 5-8).

As per claim 24, David and Judith disclose the limitations of claim 25 in the rejection of claim 22 above. However, David and Judith do not explicitly disclose “generating simulation data using the marketing analytics”. Frost in the same field of endeavor discloses the claimed feature “generating simulation data using the marketing analytics” as a means of simulating the market data (col. 9, lines 41-58). It would have obvious to a person of ordinary skill in the art to modify David’s system and Judith to include market simulation in the same conventional manner as disclosed by Frost. One having ordinary skill in the art would have been motivated to utilize

Art Unit: 3623

such a combination to allow customers to make intelligence decisions and take timely actions to achieve business goals.

As per claim 25, the David and Judith disclose the limitations of claim 25 in the rejection of claim 22 above. However, David does not explicitly disclose “a trend analytic”. Frost in the same field of endeavor discloses at least the claimed feature “trend analytic” as a means of predicting trend in market shares (col. 11, lines 35-38). It would have obvious to a person of ordinary skill in the art to modify David’s system and Judith to include trend in market shares as taught by Frost. One having ordinary skill in the art would have been motivated to utilize such a combination to allow customers to make intelligence decisions and take timely actions to achieve business goals.

As per claim 26, David discloses an apparatus comprising:

a memory and processor a processor coupled to the memory (Page 9, lines 24-28),  
wherein the processor is configured to:

receiving at least conjoint survey data concerning consumer experience with a brand  
(receiving survey data from the customer ) (Page 3, lines 6-8; Page 16, lines 6-8);

processing at least the conjoint survey data (Page 8 lines 23-27).

David discloses presenting/displaying the survey data to the user in multiple formats (Page 18, lines 9-14 and Page 19, lines 4-10). However, David does not explicitly disclose producing marketing analytics and presenting the marketing analytics to a user. Frost, on the other hand, discloses “producing marketing analytics” as a means of performing analysis on survey data obtained from customers (col. 8, lines 36-39 and col. 9, lines 38-58). It would have been obvious to a person of ordinary skill in the art to modify the survey system of David to

Art Unit: 3623

incorporate the marketing analysis of Frost. One having ordinary skill in the art would have been motivated to use such a modification in order to allow customers to make intelligence decisions and take timely actions to achieve business goals. In addition, David and Frost do not explicitly disclose the use of conjoint data. However Judith disclose the idea of receiving conjoint survey data. It would have been obvious to a person of ordinary skill in the art to modify the disclosures of David and Frost to incorporate the conjoint survey data of Judith in order to make decisive market decision.

As per claim 27, David, Frost and Judith disclose the limitations of claim 27 in the rejection of claim 26 above. In addition, David discloses a network system (See Page 7, lines 5-8).

As per claim 28, David and Judith disclose the limitations of claim 25 in the rejection of claim 26 above. However, David and Judith do not explicitly disclose “generating simulation data using the marketing analytic”. On the other hand, Frost discloses the claimed feature “generating simulation data using the marketing analytics” as a means of simulating the market share data (col. 9, lines 41-58) . It would have obvious to a person of ordinary skill in the art to modify David’s system and Judith to include market simulation in the same conventional manner as disclosed by Frost. One having ordinary skill in the art would have been motivated to utilize such a combination to allow customers to make intelligence decisions and take timely actions to achieve business goals.

As per claim 29, David and Judith disclose the limitations of claim 25 in the rejection of claim 22 above. However, David and Judith do not explicitly disclose “a trend analytic”. Frost in the same field of endeavor, discloses at least the claimed feature “a trend analytic” as a means

Art Unit: 3623

of predicting trend in market shares (col. 11, lines 35-38). It would have obvious to a person of ordinary skill in the art to modify David's system and Judith to include trend in market shares as taught by Frost. One having ordinary skill in the art would have been motivated to utilize such a combination to allow customers to make intelligence decisions and take timely actions to achieve business goals.

Claim 30 recites an article comprising a computer-readable medium that stores executable instructions corresponding to limitations in method claim 22 above. Therefore, it is rejected under the same rationale.

Claim 31 recites an article comprising a computer-readable medium that stores executable instructions corresponding to limitations in method claim 23 above. Therefore, it is rejected under the same rationale.

Claim 32 recites an article comprising a computer-readable medium that stores executable instructions corresponding to limitations in method claim 24 above. Therefore, it is rejected under the same rationale.

Claim 33 recites an article comprising a computer-readable medium that stores executable instructions corresponding to limitations in method claim 29 above. Therefore, it is rejected under the same rationale.

As per claims 40, 45, and 50, Frost discloses the concept market research utilizing quantitative marketing information (col. 1, lines 10-37).

As per claims 42, 47, and 52, the combination of David, does not explicitly disclose wherein the conjoint survey data concerning consumer experience with a brand is performed in real time. However, it would have been obvious to a person of ordinary skill in the art to receive

Art Unit: 3623

the conjoint survey or any survey data in real-time with the motivation to provide a user the capability for making marketing decisions concerning customer satisfaction and loyalty.

5. Claims 34-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over David (Wo9959096) in view of Frost (U.S. Patent No. 5,041,972), in view of Revashetti et al (U.S. Patent No. 6,453,347) and further in view of Judith (Using trade-off analysis to determine value-price sensitivity of custom calling features).

As per claim 34, David discloses a customer survey system comprising:

processing at least survey data regarding at least one brand (Page 8, lines 23-24);

displaying the survey data based on a user selection (Page 18, lines 9-27 and Page 19, lines 4-10);

David is silent on the idea of grouping the processed data according to a plurality of marketing analytics. Frost in the same field of endeavor, discloses the claimed feature “grouping the processed data according to a plurality of marketing analytics” as a means of evaluating the survey data and grouping the data for performing marketing analysis (col. 7, lines 29-54 and col. 8, lines 36-39). It would have been obvious to a person of ordinary skill in the art to modify the system of David to include marketing analytic “analysis” in the same conventional manner as disclosed by Frost. One having ordinary skill in the art would have been motivated to use such a modification in order to allow customers to make intelligence decisions and take timely actions to achieve business goals. The combination of David and Frost does not explicitly disclose an analytic engine and a presentation engine. Revashetti et al, in the same field of endeavor, discloses an analysis engine and a presentation engine for analyzing and presenting marketing data to a user computer (See figure 3-2, elements 324 and 326; col. 4, lines 34-57). It would

Art Unit: 3623

have been obvious to a person of ordinary skill in the art to modify the David and Frost's system to include the analysis engine and the presentation engine of Revashetti et al. One having ordinary skill in the art would have been motivated to do so in order to present marketing information to a user. In addition, David, Frost and Revashetti do not explicitly disclose the use of conjoint data. However Judith disclose the idea of receiving conjoint survey data. It would have been obvious to a person of ordinary skill in the art to modify the disclosures of David and Frost and Frost and Revashetti to incorporate the conjoint survey data of Judith in order to make decisive market decision.

As per claim 35, David, Revashetti and Judith disclose the limitation of claim 35 in the rejection of claim 34 above. However, the combined references of David and Revashetti and Judith do not explicitly disclose "generating simulation data using the marketing analytic". On the other hand, Frost discloses the claimed feature "generating simulation data using the marketing analytics" as a means of simulating the market data (col. 9, lines 41-58). It would have obvious to a person of ordinary skill in the art to modify David and Ravashetti and Judith's system to include market simulation in the same conventional manner as disclosed by Frost. One having ordinary skill in the art would have been motivated to utilize such a combination to allow customers to make intelligence decisions and take timely actions to achieve business goals.

As per claim 36, David Judith and Revashetti disclose the limitations of claim 36 in the rejection of claim 34 above. However, the combined references of David, Judith, and Revashetti do not explicitly disclose "a trend analytic". On the other hand, Frost discloses at least the claimed feature "trend analytic" as a means of predicting trend in market shares (col. 11, lines 35-38). It would have obvious to a person of ordinary skill in the art to modify the David, Judith

Art Unit: 3623

and Revashetti's system to include trend in market shares as taught by Frost. One having ordinary skill in the art would have been motivated to utilize such a combination to allow customers to make intelligence decisions and take timely actions to achieve business goals.

As per claim 37, David, Revashetti, and Judith disclose the limitations of claim 37 in the rejection of claim 34 above. However, the combination of David, Revashetti, and Judith does not explicitly disclose "receiving at least one of a market share data". Frost in the same field of endeavor, discloses receiving at least one of a market share data (col. 9, line 53). It would have been obvious to a person of ordinary skill in the art to modify the survey system of David and Revashetti, and Judith's system to incorporate the market share data in the same conventional manner as disclosed by Frost. One having ordinary skill in the art would have been motivated to use such a modification in order to allow customers to make intelligence decisions and take timely actions to achieve business goals.

6. Claims 38 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over David in view of Frost, Judith, and Revashetti as applied to claim 1 above and further in view of Reason (GIS – Is it a private matter?)

As per claims 38, 43 and 48, David, Frost and Judith teach all the limitations in claims 8, 15, and 37 but fails to teach utility information. Reason in the same field of endeavor, discloses the idea of using utility data in marketing. Note entire article of Reason. It would have been obvious to a person of ordinary skill in the art to modify the disclosures of David, Judith and of Revashetti in order to present great marketing opportunities to a marketer.

7. Claims 39, 44 and 49 are rejected under 35 U.S.C. 103 (a) as being unpatentable over David in view of Frost, in view of Judith as applied to claims 1, 8, and 15 above and further in



Art Unit: 3623

view of Poiesz (Individual reactions to advertising: theoretical and methodological development).

As per claims 39, 44, and 49, the combination of David, Frost and Judith does not explicitly disclose allowing a user to measure the strength of the consumer experience with the brand and to make decision regarding the brand. Poiesz in the same field of endeavor, discloses the concept of a user measuring the strength of a consumer. Note entire article. It would have been obvious to a person of ordinary skill in the art to have modified the disclosures of David, Frost, and Judith to incorporate the teachings of Poiesz with the motivation to measure the consumer's behavior, thereby allowing a marketer to tailor his marketing approach to that customer's behavior.

8. Claims 41, 46, and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over David in view of Frost, in view of Judith as applied to claims 1, 8, and 15 above and further in view of Paul et al (Individual Hybrid Models for Conjoint Analysis).

As per claims 41, 46, and 51, the combination of David, Frost and Judith does not explicitly disclose calculating a total utility analytic. Paul in the same field of endeavor, disclose the concept of utility analytic. Note pages 850-853. It would have been obvious to a person of ordinary skill in the art to have modified the disclosures of David, Frost and Judith to incorporate a utility analytic in the same conventional as evidenced by Paul in order to provide researchers with day-to-day decisions of consumers' brand buying pattern.

### **Conclusion**

Art Unit: 3623

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Korea (Dialog) discloses "Internet changing research on marketing", which teaches the concept of quantitative information.

Any inquiry concerning this communication or earlier communications from the examiner should be directed Romain Jeanty whose telephone number is (703) 308-9585. The examiner can normally be reached Monday-Thursday from 7:30 am to 6:00 pm. If attempts to reach the examiner are not successful, the examiner's supervisor, Tariq R Hafiz can be reached at (703) 305-9643.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

Commissioner for Patents

PO. Box 1450


Alexandria, VA 22313-1450

or faxed to: (703) 305-7687

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington VA, Seventh floor receptionist.

RJ

June 28, 2004.

  
**ROMAIN JEANTY**  
**PRIMARY EXAMINER**  
*Art Unit 3623*